

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MANDEL A. STOKER

Plaintiff

v.

STEMCO, LP

Defendant.

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CIVIL ACTION NO. 2:11cv214

JUDGE _____

JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Comes now Plaintiff Mandel A. Stoker, who for his original complaint states as follows:

I

Preliminary Statement

1. Plaintiff Mandel A. Stoker commences this action pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* ("Title VII"), and 42 U.S.C. § 1981 which in relevant part prohibits discrimination in employment based upon an employee's race.

2. Plaintiff Stoker brings this cause of action to vindicate his rights guaranteed by Title VII and 42 U.S.C. § 1981. Plaintiff Stoker seeks the full measure of available relief under Title VII and 42 U.S.C. § 1981, including equitable, declaratory, injunctive, compensatory and punitive remedies, as well as statutory attorney's fees and costs.

II

Jurisdiction

3. This Court has jurisdiction over Plaintiff Stoker's Title VII claim pursuant to 42 U.S.C. § 2000e-5(f)(3). Additionally, this Court has jurisdiction over Plaintiff Stoker's Title VII and 42

U.S.C. § 1981 claims pursuant to 28 U.S.C. § 1331, which creates original jurisdiction for this Court over all civil actions arising under the Constitution, laws, or treaties of the United States.

III

Parties

Plaintiff

4. Plaintiff Mandel A. Stoker is and was at all times relevant hereto a citizen of the United States and a resident of Gregg County, Texas.

Defendant

5. Defendant STEMCO, LP (hereafter “STEMCO”) is a domestic limited partnership doing business in the State of Texas. Defendant STEMCO, may be served through its registered agent for process, CT Corporation System, 350 N. St. Paul St., Suite 2900, Dallas, TX 75201.

IV

Procedural History

6. Plaintiff Stoker timely filed a Charge of Discrimination with the Equal Employment Opportunity Commission and the Texas Workforce Commission Civil Rights Division. Plaintiff Stoker received his right-to-sue letter after its issuance on January 26, 2011 and has satisfied all other procedural prerequisites for filing suit.

V

Facts

7. Plaintiff Mandel A. Stoker is a fifty-two (52) year old African-American male.

8. Plaintiff Stoker was at all times relevant hereto an employee of Defendant STEMCO and is therefore entitled to the protections of Title VII, 42 U.S.C. § 2000e, *et seq.* and 42 U.S.C. § 1981.

9. Defendant STEMCO employs more than 15 employees and is subject to the prohibitions against discrimination in Title VII.

10. At all times relevant hereto, Plaintiff Stoker was a competent, qualified, loyal and conscientious employee.

11. Plaintiff Stoker was a machine operator for Defendant STEMCO for approximately six years.

12. Plaintiff Stoker was a dedicated employee of Defendant STEMCO who took pride in his work and trained other employees on the job, even creating a PowerPoint presentation demonstrating what the company did.

13. On or about August 6, 2010, Plaintiff Stoker was discharged by Defendant STEMCO.

14. Plaintiff Stoker was discharged for the bogus reason that he did not clean his machine before he started upon the direction of his team leader. Plaintiff Stoker had been explicitly told by his supervisor to run parts first before cleaning his machine.

15. Plaintiff Stoker has additionally been accused of using profanity on the job. Plaintiff Stoker, however, did not use profanity on the job.

16. Plaintiff Stoker operated his machine in the same manner that white employees did who were not terminated.

17. The real reason for Plaintiff Stoker's termination was his race.

18. Based upon information and belief, African-American employees are subjected to different terms and conditions of employment than white employees at Defendant STEMCO.

19. Defendant's conduct, complained of above, including actions and omissions, proximately caused Plaintiff Stoker to suffer mental, emotional and psychological damages, as well as lost pay, including fringe benefits.

20. All of Defendant STEMCO's wrongful acts and omissions as set out above were wanton, malicious, and done in conscious disregard of and with deliberate indifference to the rights and needs of Plaintiff Stoker, rendering appropriate an award of punitive damages under Title VII and 42 U.S.C. § 1981.

VI

Causes of Action

21. Defendant STEMCO's acts and omissions pertaining to race discrimination as set out above constitute violations of Title VII of the Civil Rights Act of 1964, as amended.

22. Defendant STEMCO's acts and omissions pertaining to race discrimination as set out above also constitute violations of 42 U.S.C. § 1981.

VII

Jury Demanded

23. Plaintiff Stoker hereby demands a trial by jury on all issues so triable.

VIII

Prayer for Relief

24. WHEREFORE PLAINTIFF PRAYS THAT THIS HONORABLE COURT:

- a. Enter declaratory judgment against Defendant STEMCO and in favor of Plaintiff Stoker recognizing that Defendant has violated Plaintiff's rights guaranteed by Title VII and 42 U.S.C. § 1981;
- b. Enter an injunction ordering Defendant STEMCO to reinstate Plaintiff Stoker with full pay, or alternatively, award appropriate back pay and front pay;

- c. Enter judgment against Defendant STEMCO in favor of Plaintiff Stoker for full compensatory damages, as well as appropriate back pay and front pay, if necessary;
- d. Enter judgment against Defendant STEMCO in favor of Plaintiff Stoker for punitive damages in an amount sufficient to deter Defendant from similar misconduct against Plaintiff Stoker and others;
- e. Enter an award against Defendant STEMCO in favor of Plaintiff Stoker to pay Plaintiff Stoker reasonable attorney's fees and costs, pursuant to Title VII and 42 U.S.C. § 1988;
- f. Grant Plaintiff Stoker a trial by jury; and
- g. Grant Plaintiff Stoker any and all additional relief to which he may be entitled.

Respectfully Submitted,

/s/ Alex A. Castetter

Alex A. Castetter

Attorney for Plaintiff Stoker

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